

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR**

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

WP(C).No. 19387 of 2007(S)

**I.A. 510/2007 IN OP.45/2007 of FAMILY COURT,
MALAPPURAM**
.....

PETITIONER:

**MUHAMMED KUTTY ARIPRATHODI,
S/O. ABDURAHIMAN @ ABU, MANGALAD HOUSE,
PALLIKKAL AMSOM, DESOM, P.O. PUTHUR PALLIKKAL.**

BY ADV. SRI. DEVAPRASANTH. P.J.

RESPONDENT:

**KADEEJA PERUMTHODI, D/O. SAITHALAVI,
VELLEGARA HOUSE, P.O. PALLIKKAL.**

BY ADV. SRI. P. SAMSUDIN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23/07/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

WP(C).No. 19387/2007(S)

A P P E N D I X

PETITIONER'S EXHIBITS:

- EXT. P1 : COPY OF THE PETITION FILED BY THE
RESPONDENT AS OP NO. 45/07 BEFORE THE
FAMILY COURT-MALAPPURAM DATED 18.01.2007.**
- EXT. P2 : COPY OF THE AFFIDAVIT AND PETITION FILED BY
THE PETITIONER AS IA. NO. 510/07 IN
OP. 45/2007 DATED 13.03.2007.**
- EXT. P3 : COPY OF THE ORDER DATED 13.03.2007 IN
OP. 45/07 PASSED BY THE FAMILY COURT,
MALAPPURAM.**
- EXT. P4 : COPY OF THE ORDER DATED 07.06.2007 IN
IA. 510/2007 IN OP. 45/2007 PASSED BY THE
FAMILY COURT, MALAPPURAM.**

// True Copy //

P.A. to Judge.

smp

KURIAN JOSEPH & T.R. RAMACHANDRAN NAIR, JJ.

W.P. (C) NO. 19387 OF 2007

Dated this the 23rd day of July, 2007.

J U D G M E N T

Kurian Joseph, J.

The petitioner is aggrieved by the order dated 07.06.2007 in I.A. No. 510/2007. The grievance is particularly towards imposition of 2% of the decree amount as cost for setting aside the ex parte decree.

2. According to the petitioner, only because of the crowd he could not properly represent before the court and on the very same day he was set at ex parte. Having heard the counsel on both sides we are satisfied that it is not a fit case where the petitioner should have been imposed cost. However, we are of the view that it is only in the interest of justice that some amount is directed to be deposited towards maintenance.

3. It is pointed out that, as far as future maintenance is concerned pursuant to the orders passed by this Court in the revisional jurisdiction, maintenance is being paid at the rate of Rs. 1,000/- to the respondent.

Accordingly, we set aside the order in I.A. No. 510/2007. The application stands allowed. There will be a direction to the Family Court, Malappuram to dispose of O.P. No. 45/2007 expeditiously. Parties will appear before the Family Court on 20.08.2007. In the meanwhile, the petitioner shall deposit an amount of Rs. 15,000/- (Rupees Fifteen thousand only) towards claim for past maintenance within three weeks from today. On such deposit, it will be open to the respondent to withdraw the same.

**KURIAN JOSEPH
JUDGE**

**T.R. RAMACHANDRAN NAIR
JUDGE**

smp